HEA 1033: RENEWABLE ENERGY AND ENERGY SAVINGS CONTRACTS

- <u>Renewable Energy</u>: requires the Indiana State Department of Agriculture (ISDA) to facilitate the use of biomass and algae production systems to generate renewable energy as part of its duties in the administration of agricultural economic development efforts. It also requires the State Utility Forecasting Group (SUFG), in formulating suggestions concerning renewable energy resources for inclusion in its annual report, to evaluate potential renewable energy generation opportunities from biomass and algae production systems.
- <u>Guaranteed Energy Cost Saving Contracts</u>: provides that the maximum term of a guaranteed energy cost savings contract or utility efficiency program is 20 years. (Current law provides for maximum terms of 10 and 15 years, respectively.)
- <u>Design-Build Contracts</u>: amends the statute governing local public works projects to provide that a political subdivision or its agencies may: (1) participate in a utility efficiency program; (2) enter into a guaranteed savings contract; and (3) enter into a design-build contract instead of awarding a public works contract.
- <u>Conservation Measure</u>: This bill provides that the term "conservation measure" includes the installation of insulation in a political subdivision's facility. (Under current law, installing insulation is a "conservation measure" only if the insulation is installed in a school facility.)

HEA 1097: VARIOUS ENVIRONMENTAL MATTERS

- Indoor Air Quality: requires the Indiana State Department of Health (ISDH) to adopt rules concerning indoor air quality in schools and state agencies. The bill provides that after the ISDH inspects a school or state agency for indoor air quality as the result of a complaint, the ISDH must report certain information. The complaint must be in writing and may be made by electronic mail. It also allows the ISDH to release the name of a complainant only if the complainant has authorized the release in writing. Requires the ISDH to post minutes of each meeting of the air quality panel on the ISDH web site not later than 45 days after the meeting. It provides that the ISDH (1) shall distribute a manual of best practices for managing indoor air quality at schools and allows ISDH to use a manual developed by other states and federal health and environmental agencies; and (2) review and revise the manual at least once every three years.
- <u>Outdoor Air Quality</u>: provides that, after June 30, 2009, if the ISDH amends the rules concerning health and safety requirements for school buildings and school sites after June 30, 2009, the ISDH must consider the effects of outdoor air quality when establishing criteria for school siting.

- <u>Campground Sewer Rates</u>: beginning September 1, 2009, if a campground in a conservancy district is billed for sewage service at a flat rate, the campground may instead elect to be billed for the sewage service by installing a meter to measure the actual amount of sewage discharged by the campground into the district's sewers at the campground's expense.
- <u>Sewage Works in Private Dwellings</u>: authorizes a board of sanitation commission or a board of public works to (1) provide financial assistance for the installation of certain sewage works in private dwellings; and (2) establish a user fee to pay for the financial assistance.

HEA 1162: ENVIRONMENTAL MATTERS

- <u>Permits</u>: provides that if a person has been issued a permit by the Indiana Department of Environmental Management (IDEM) to construct, install, or operate a facility, equipment, or device, the person may not start construction until they have also obtained any approval required by any county, city, or town in which the facility, equipment, or device is located. The local approval requirement must be in effect at the time of the permit application.
- <u>Regional Water, Sewer, or Solid Waste District</u>: allows the board of a regional water, sewer, or solid waste district to adopt an ordinance allowing payment of certain claims in advance of board allowance.
- <u>Definitions</u>: amends the definition of "restrictive covenant" for those executed after June 30, 2009. Amends the definitions of "owner" and "operator" for purposes of exceptions to liability for releases from underground storage tanks (UST) and of "owner or operator" for purposes of exceptions to liability for releases of petroleum. Adds the definition of "environmental restrictive covenant" to mean any land ordinance adopted by a municipality that limits, regulates or prohibits groundwater usage.
- Expansion of Remediation Factors: expands the application of remediation and closure goals, objectives, and standards. Eliminates the authority of IDEM to approve environmental restrictive covenants and delineates the authority of IDEM to enforce covenants. Requires IDEM to review and act on activities and land use restrictions proposed as part of certain actions to be included in a restrictive covenant.
- <u>Liability</u>: provides that a covenant not to sue does not apply to future liability for a condition on property involved in a voluntary remediation work plan, only if the condition was present at the time IDEM issued the certificate of completion.

- <u>Certificate of Completion</u>: allows IDEM to include in a certificate of completion or a covenant not to sue conditions that must be performed or maintained after issuance of the certificate or covenant. (For example, IDEM could require that no future digging be performed at a site where contaminants were covered with dirt or concrete.)
- Local Ordinances: with respect to local ordinances that establish certain land use restrictions (other than zoning or comprehensive plans), the bill requires that a municipal corporation give notice to IDEM not later than 60 days before amendment or repeal and no later than 30 days after passage, amendment, or repeal. Allows IDEM to waive the notice requirement. Requires IDEM to consider and give effect to environmental restrictive ordinances in evaluating risk-based remediation proposals. Remediation and closure goals, objectives, and standards for all remediation projects conducted under hazardous waste management, UST, petroleum, and Hazardous Substances Response Trust Fund statutes must be consistent with the remediation objectives applicable to voluntary remediation work plans.
- <u>Total Maximum Daily Load (TMDL) for a Pollutant:</u> requires IDEM in the establishment of the TMDL for a surface water to make every reasonable effort to identify the pollutant under consideration. Establishes procedures IDEM must follow if IDEM (1) is unable to identify the pollutant and later identifies one or more pollutants; or (2) identifies the pollutant and later identifies one or more other pollutants.
- <u>Repeal of Exceptional Use Water</u>: provides that each "exceptional use water" designated by the Water Pollution Control Board (WPCB) before June 1, 2009, becomes an Outstanding State Resource Water on June 1, 2009. Repeals the definition of "exceptional use water". Specifies the categories of regulation for all waters of the state.
- Adoption of Rule for Antidegradation Standards: for all waters of the state, IDEM is required to complete an antidegradation review of the rules of the WPCB that authorize National Pollutant Discharge Elimination System (NPDES) general permits. It permits the WPCB to modify those rules for purposes of antidegradation compliance. After an antidegradation review of a rule is conducted, activities covered by an NPDES general permit authorized by that rule are not required to undergo an additional antidegradation review. Provides that an NPDES general permit may not be used to authorize a discharge into an Outstanding National Resource Water (ONRW) or an Outstanding State Resource Water (OSRW), except that a short-term, temporary storm water discharge may be permitted under an NPDES general permit if IDEM determines that the discharge will not significantly lower the water quality downstream. Establishes the factors IDEM must consider in antidegradation reviews for certain NPDES permits. Establishes a deadline for IDEM to complete the antidegradation review and to act on applications for approval of associated NPDES permits. Allows IDEM to extend for cause for not more than 90

- days the deadline for IDEM to adopt antidegradation standards and implementation procedures. (IDEM is already in the rulemaking process)
- Environmental Quality Service Council (EQSC): requires IDEM to annually report to the EQSC plans for the use, implementation and balance of the OSRW Improvement Fund. Requires the EQSC to study (1) the advisability of establishing an institutional control registry and environmental trust fund; and (2) the feasibility of incorporating notice of restrictive covenants and environmental restrictive ordinances into the "One Call" system.

HEA 1191: FERTILIZER LAW MATTERS

- Fertilizer Certification and Education Program: requires the Office of the Indiana State Chemist (OISC) to adopt rules to establish certification and educational programs for persons hired to apply and/or transport fertilizer material, or persons who apply and/or transport fertilizer material from a confined feeding operation (CFO) or from a CFO outside Indiana. Allows fees to be assessed for the certification and education programs. Requires an annual financial report to be submitted to the Governor. The State Chemist may waive all or part of the certification requirements with any state or federal agency that has substantially the same certification standards. Provides that the OISC may allow the use of technologies or methods not specified in rules to handle or use ammonia and ammonia solutions.
- <u>Fertilizer Advisory Board</u>: provides that the members of the Fertilizer Advisory Board who are not state employees are reimbursed for expenses under the travel policies of Purdue University.
- <u>Penalties:</u> makes the violation of certain agriculture ammonia laws a Class C misdemeanor (Current law imposes a Class C infraction) and provides that the penalty applies for a knowing or intentional violation. Allows OISC to impose civil penalties for violations of the commercial fertilizer laws. Repeals penalties for certain violations. Authorizes OISC, on recommendation of the Fertilizer Advisory Board, to adopt rules establishing a schedule of civil penalties that may be imposed.
- <u>Confined Animal Feeding Operation</u>: amends the definition of CFO to be consistent with the federal definition of "concentrated animal feeding operation" (CAFO) and eliminates the separate CAFO references in the requirement that the Department of Environmental Management (IDEM) approve construction of a CFO.
- <u>Definitions</u>: amends various definitions to specify terms as either commercial fertilizer or fertilizer material. Provides that fertilizer material must have nutrient value. Requires containers that contain commercial fertilizer to have certain information on or affixed to the package.

HEA 1193: E85 FUELING STATION GRANT PROGRAM

• Adds school corporations, colleges and universities to the list of entities that are eligible to apply for a grant under the E85 Fueling Station Grant Program administered by the Indiana State Department of Agriculture (ISDA) and Office of Energy Development (OED).

HEA 1203: Invasive Species Council

- Establishes the Invasive Species Council within the Purdue University School of Agriculture. The Council is required to: (1) recommend rules, laws and funding priorities concerning invasive species; (2) recommend a lead state agency to develop an inventory and data management system; (3) communicate with other state and federal agencies, and state and regional organization to prevent the spread of, provide early detection of, and response and management of invasive species; (4) coordinate invasive species education and outreach programs; (5) convene meetings at least once per year to provide information on best practices and research findings; (6) assist agencies in reviewing current policies and procedures to address any deficiencies or inconsistencies and assist them in reviewing their performance measures on the agency's actions; (7) apply for grants and provide grants for education and management.
- The Council does not have any regulatory authority or authority to hear appeals of grievances. The Council may create advisory committees to provide information and recommendations.
- The Council consists of 6 state employees and 5 members who are not state employees. Staggers the initial terms of the appointed council members. State agencies required to serve on the Council are Indiana State Department of Agriculture, Indiana Department of Transportation, Department of Natural Resources' divisions of Fish and Wildlife and Entomology and Plant Pathology.
- Establishes the Invasive Species Council Fund as a separate fund in the Purdue University treasury. Expenses of administering the fund must be paid from the fund.
- The Council expires July 1, 2015.

HEA 1204: CLEAN WATER INDIANA FUND

• Provides that money in the Clean Water Indiana (CWI) fund does not revert to any fund at the end of a fiscal year, but remains available for use for the purposes of the fund. (Current law states that money in the CWI fund at the end of a state fiscal year does not revert to the state General Fund only.)

HEA 1218: INDIANA GRAIN INDEMNITY FUND

- Increases by \$5,000,000 the amount of money that must be in the Indiana Grain Indemnity Fund: (1) before expenses of administering the Fund may be taken from the fund; (2) before funds cease to be collected and then collection is reinstated; and (3) before the Grain Indemnity Board may not require the collection of producer premiums.
- The amount of money that must be in the Indiana Grain Indemnity Fund will increase from \$5 M to \$10 M before expenses for administering the Fund may be allocated. No more than \$250,000 per year may be used for administrative expenses.
- Collection of producer premiums may be reinstated when the Fund is at or below \$10 M until the Fund contains at least \$15 M. (Current statute provides that producer premiums may be collected until the fund contains at least \$10 M and collections may be reinstated when the Fund is at or below \$5 M.)

HEA 1219: GRAIN BUYERS AND WAREHOUSE LICENSING

- Makes conforming changes to delineate between the definitions of "warehouse" and "warehouse operator" so that both statute and administrative rules have congruent definitions.
- Adds to statute the procedures for an annual renewal of an application. (Currently, the renewal procedures are established in administrative code only.)
- Authorizes the Indiana Grain Buyers and Warehouse Licensing Agency (IGBWLA) to assess penalties for late application renewals. The amount of the penalty is based on the type of license and number of days past due.
- Allows the director of the IGBWLA to prorate certain annual licensing fees.
- Amends confidentiality provisions to allow the IGBWLA to disclose the names of grain buyers or warehouses and the county where they are located.
- Allows the IGBWLA to accept other forms of surety to show a grain buyer's or warehouse's net worth that are permitted under the rules of the Agency.

HEA 1278: WATER AND UTILITIES

- Water and Drainage Study Committee: urges the Legislative Council to assign to a study committee the topic of water rights, drainage, and utilities. Issues to address are: (1) water and drainage concerns in urban and rural areas; (2) how water and drainage issues affect the development of land; (3) appropriate role of drainage boards and condemnation; (4) whether the "common enemy doctrine" of water diversion should be retained, modified, or abrogated (This is a common law principle where a property owner cannot modify the flow of surface water to the detriment of his neighbor).
- Eminent Domain with Respect to Certain Utilities: specifies the procedures by which a municipality may exercise the power of eminent domain to acquire the property of a public utility. A municipality (1) may recover costs associated with acquiring utility property through reasonable rates and charges; and (2) may not impose additional rates or charges to pay for costs associated with acquiring the property by condemnation. Repeals provisions that (1) permit a public utility to seek judicial review of the public convenience and necessity of the acquisition of the public utility's property by a municipality; and (2) require voter approval of the acquisition by purchase or condemnation of the property of a public utility.

HEA 1309: FARMERS' MARKETS AND ROADSIDE STANDS

- Exempts farmers' markets and roadside stands from the definition of food establishment if the food product: (1) is made by the individual at the individual's primary residence; (2) is not a potentially hazardous food product; (3) includes a label setting forth specified information; (4) is prepared by an individual who practices proper sanitary procedures; and (5) is not resold.
- Allows the Indiana State Department of Health (ISDH) to inspect an individual vendor if
 the vendor's food product is misbranded, adulterated or a consumer complaint is
 received. It also allows the State Health Commissioner to develop guidelines for
 individual vendors seeking exemption.

HEA 1365: TAX ASSESSMENT OF LAND AFFECTED BY FLOODING

• Enables a property owner to petition the county assessor for a reassessment of land that has been permanently flooded or to which access over the land is permanently prevented by flooding and can the land can no longer be farmed due to the flooding. (business and other personal property are not included)

- If approved, the property owner is entitled to a refund of the difference in any property taxes paid and the amount of property taxes computed based on the reassessment of the property. The taxpayer would be reimbursed from the county general fund. The reassessment would remain in effect until rescinded by the assessor.
- Allows the county auditor to reduce the assessed value of the county taxing unit to enable
 the unit to absorb the effects expected to result from having to pay refunds to taxpayers
 because of the reassessment.
- Applies the reassessment provision retroactively to flooding that has occurred since March 1, 2008. Requires the county auditor and the county treasure to publish notice of the availability of a reassessment for flooding.

HEA 1398: ETHANOL INCENTIVES

- Retail Merchant E85 Deduction Reimbursement Fund: amends the E85 sales tax deduction program, funded by the Indiana corn checkoff. Establishes the Retail Merchant E85 Deduction Reimbursement Fund, and requires the Indiana Corn Marketing Council's (ICMC) annual transfers to the Fund in amounts calculated to maintain a balance of \$500,000 for each fiscal year beginning January 1, 2010. The \$.18/gallon sales tax deduction is available for reporting periods beginning on January 1 and ending before April 1. Specifies procedures for administering the deduction. Transfers administration of the deduction from the Department of Revenue (DOR) to the State Budget Agency (SBA).
- <u>Corn Checkoff</u>: adjusts corn checkoff refund and audit requirements. Provides that the amount of money expended on administering Indiana Corn Market Development statutes in a state fiscal year may not exceed 10% of the total amount of assessments, grants, and gifts received by the ICMC in that year. Allows audits of assessments to be conducted by either a CPA or an auditor familiar with the storage, conditioning, shipping and handling of agricultural commodities of the Council's choosing.
- <u>E85 Fueling Station Grant Program</u>: adds school corporations and state educational institutions to the list of governmental entities that are eligible to apply for a grant under the E85 Fueling Station Grant Program administered by the Indiana State Department of Agriculture (ISDA) and Office of Energy Development (OED). (HEA 1193)
- <u>School Biofuel Use</u>: requires state educational institutions to purchase mid-level blend fuel, E85, and/or blended biodiesel fuel whenever possible.

• <u>Definitions</u>: removes the term "gasohol". Adds definition for the term "E85" meaning a fuel blend consisting of 85% ethanol and 15% gasoline that meets ASTM 5798-99. Adds definition for the term "mid-level blend fuel" meaning a fuel blend consisting of at least 20% but not more than 73% ethanol. Adds definition for the term "diesel fueled vehicle" meaning a vehicle capable of using diesel to fuel its primary motor.

HEA 1468: ANIMAL CRUELTY AND COMMERCIAL DOG BREEDERS

Commercial Dog Breeding Program

- Establishes a registry program of commercial dog breeders through the Board of Animal Health (BOAH) that will begin January 1, 2010.
- Annual registration fees range from \$75-\$1000 depending on the number of dogs. The fees are deposited in the Commercial Dog Breeder/Broker Fund within BOAH. There are no caps on the number of dogs. Removes the provision that allowed donations to be made to the fund. Attorney General can bring an action to collect unpaid registration fees owed to BOAH.
- Authorizes BOAH to enforce the USDA standards and other standards of care (cage requirements, exercise, medical records) when BOAH determines that sufficient funds have been deposited.
- Permits a unit of local government to enforce a more stringent ordinance if the ordinance was adopted before January 1, 2010. After this date, a unit of local government cannot adopt an ordinance imposing more stringent requirements on commercial dog breeders.
- The Program does not apply to animal shelters, humane societies, animal rescue operations, hobby breeders (20 or less female dogs), service dog breeders or sport dog breeders.

Animal Cruelty Provisions

- Broadens the definition of "neglect" of an animal to include:
 - 1. Endangering an animal's health by failing to provide "or arranging to provide" food and drink.
 - 2. Restraining an animal for more than brief period by use of a tether, chain or rope "in a manner that endangers the animal's life or health (new)".
 - 3. Restraining an animal in a manner that seriously endangers the animal's life or health. (new)
 - 4. Failing to provide reasonable care or seek veterinary care for an injury or illness to a dog or cat that seriously endangers their life or health. (new)
 - 5. Leaving a dog or cat outside and exposed to excessive heat or cold without providing protection, regardless of whether the animal is restrained or kept in a kennel. (new)
- Broadens the definition of "torture" by administering poison to apply to "domestic animals". (Current law applies only to dogs or cats.)
- Adds to list of exemptions from the animal cruelty statutes:
 - 1. the destruction of an animal by an animal control program;
 - 2. the destruction of an injured or ill animal by an individual to prevent the animal from prolonged suffering;

- 3. conduct not resulting in serious injury or illness to an animal that is incidental to exhibiting an animal for show, competition, or display or that is incidental to transporting the animal for show, competition or display;
- 4. the humane destruction of an animal by its owner; and
- 5. parking an animal.
- Makes it a Class D felony for a person to knowingly or intentionally kill a "domestic animal" without the consent of the owner. Defines "domestic animal" as an animal that is not wild, limited to cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus.
- Feral animals are not considered to be in a person's custody regarding abandon or neglect statutes.
- Removes a provision that a veterinarian may report a suspected incident of animal cruelty under the law concerning offenses relating to animals to a law enforcement officer.
- Makes abandoning or neglecting an animal a Class A misdemeanor, and enhances the
 penalty to a Class D felony if the person has a prior conviction. Provides that a second or
 subsequent conviction for attending an animal fighting contest is a Class D felony.
- Authorizes a court or parole board, as a condition of bail or parole, to prohibit a person charged or convicted of an animal cruelty offense from owning an animal.
- If a person has a restraining order against them, the person is also prohibited from having contact with any animals belonging to the individual.

HEA 1473: RENTAL PROPERTY IN A FLOOD PLAIN

• Requires that residential, agricultural, and commercial rental agreements entered into or renewed after June 30, 2009, must disclose if a structure on the property is located in a flood plain.

HEA 1483: FARM WAGONS AND GOLF CARTS

• <u>Farm Wagons:</u> amends definition of "farm wagon" to include three-, four-, and six-wheeled motor vehicles with a folding hitch on the front that is used to transport a person from one field to another or on the farm premises. Prohibits the motorized farm wagons from towing a trailer. Prohibits the motorized farm wagons from operation on an interstate and are only allowed on state highways to cross from one field to another field, not along the highway. Prohibits the use on a highway to tow another vehicle. Authorizes an individual at least 15 years of age to operate a motorized farm wagon on a highway.

• Golf Carts: prohibits an individual from operating a golf cart on a highway, except when a city or town has adopted an ordinance authorizing the use of golf carts on the city's or town's highways. Specifies that an ordinance: (A) may require that a golf cart display a slow-moving vehicle sign or a red or amber flashing lamp; (B) must require an individual operating a golf cart in the city or the town to hold a driver's license. Requires financial responsibility for golf carts operated pursuant to an ordinance. Requires a person removing a wrecked or damaged golf cart from a highway to remove any glass or other foreign material dropped upon the highway from the golf cart.

HEA 1524: STATE EGG BOARD

- <u>Permits</u>: allows the State Egg Board to establish requirements and procedures to obtain a permit or registration. Requires an out-of-state permit holder to reimburse the Board for certain expenses relating to an audit. Specifies that the Board may issue farmers' market retail permits for egg producers selling at farmers' markets. (Currently anyone selling eggs at a farmers market is registered as a small retailer.) Requires the Board to establish requirements and procedures for obtaining farmers market retail permits.
- <u>Fees and Penalties</u>: allows the Board to adopt rules to set fees. Requires a wholesaler to remit a permit fee penalty of the greater of 10% of the fee or \$20 if the wholesaler does not remit a report fee within ten days. (Current law provides that the wholesaler must remit a fee of 10% of the report fee if the wholesaler does not remit a report fee within ten days.)
- Board Members: makes changes to the appointment process for members of the Board.

HEA 1535: FOOD STAMPS AND TANF AT FARMERS MARKETS

- Creates a program that requires the Division of Family Resources (DFR) to provide farmers' market administrators or vendors with wired or wireless point-of-sale terminals that are connected to the electronic benefits transfer (EBT) system that will allow the vendors to accept food stamps and TANF.
- Before January 1, 2010. The Director of DFR may set a limit of not less than 20 wireless point-of-sale terminals that are issued.

• Discretion is given to states on how to implement EBT access for farmers' markets, but the Federal Food and Nutrition Service (FNS) Agency must approve the state plan and vendors must apply for FNS vender status.

SEA 221: CONFINED ANIMAL FEEDING

- Good Character Requirements: establishes good character disclosure requirements of applicants seeking permits for new or expanding confined feeding operations (CFOs). Requires the Indiana Department of Environmental Management (IDEM) to review the disclosed good character information of an applicant's past history. Provides IDEM the ability to deny a permit if an operator has a history of environmental violations. Applies only if alleged acts and omissions, subject to disclosure, presented a substantial endangerment to human health or the environment. Provides that disclosure of acts and omissions in violation of foreign law applies only if it would have violated state or federal environmental law. Applies good character disclosure requirements to pending confined feeding projects. Provides that the disclosure requirements do not apply to a renewal of an IDEM permit.
- <u>Notification of Land Owners and Occupants</u>: requires an applicant for the construction or expansion of a CFO to inform land owners and occupants whose land is within ½ mile of the operation within 10 days of submitting the application.
- <u>Construction Approval</u>: eliminates the exception from the requirement for IDEM construction approval for a CAFO that obtains an NPDES permit.
- <u>Definitions</u>: amends the definitions of "applicant" and "responsible party" for purposes of confined feeding statutes. Amends the definition of "confined feeding operation" to be consistent with the federal definition of "concentrated animal feeding operation" (CAFO), and eliminates separate CFO and CAFO references. Makes the confined feeding control statute part of the defined term "environmental management laws".

SEA 271: ANIMAL DISEASE DIAGNOSTIC LABORATORY

- Changes approval for an increase in fees for the Animal Disease Diagnostic Laboratory at Purdue University from the Board of Trustees to the Treasurer of Purdue. (Request for increase in funds still originates from the Indiana State Board of Animal Health).
- Clarifies that proceeds from fees may be used for any purpose, except for faculty salaries.

SEA 424: PESTS AND PATHOGENS

- Amends definition of "pests and pathogens" to also include any that are injurious to natural resources for purposes of certain laws concerning entomology and plant pathology. (Current law is nursery stock, agricultural crops, other vegetation or bees).
- Allows the Department of Natural Resources (DNR) to define the boundaries of an area where a pest or pathogen is located and declare the area to be an infested area. (Current law provides that DNR must use townships as boundaries and declare all or part of a township where an infestation is located).

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